



# JUDICIAL BRANCH COVID-19 TASKFORCE MEETING

May 1, 2020

Taskforce Co Chairs, the Honorable Forrest Donald Bridges and the Honorable Jay Corpening, convened the meeting at 10:00 am by WebEx. Judge Bridges stated that the meeting is subject to North Carolina's open meetings laws and that a live audio feed had been made available to the public and members of the media. Future taskforce meetings might be subject to additional public access in light of legislation currently pending in the General Assembly.

All committee members introduced themselves as follows:

- The Honorable Forrest Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge.
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge.
- The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge.
- The Honorable Teresa Vincent, District 18 Chief District Court Judge.
- The Honorable Billy West, District 14 District Attorney, was unable to attend.
- The Honorable Robert Evans, District 8 District Attorney.
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court.
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court.
- Kinsley Craig, District 27B Trial Court Coordinator.
- Kellie Myers, District 10 Trial Court Administrator.
- Jason Cheek, Davidson County Magistrate.
- The Honorable Jennifer Harjo, New Hanover County Public Defender.
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ), was unable to attend. Attorneys David Hensen and Vernon Sumwalt attended on his behalf.
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA).
- Patrick Weede, Attorney and Appointee of the NCBA.
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA).

A number of additional people joined the WebEx as representatives of the North Carolina Administrative Office of the Courts (NCAOC), the Office of Indigent Defense Services (IDS), and the School of Government (SOG) in their capacity as advisers and staff to the taskforce. Anna Stearns, Chief of Staff and General Counsel to Chief Justice Cheri Beasley, said representatives of multiple NCAOC Divisions would be available to the taskforce and ready to assist as questions arise in their areas of expertise.

Chief of Staff Stearns said Dr. Erica Wilson, Medical Director, Vaccine Preventable and Respiratory Diseases, Communicable Disease Branch, Division of Public Health of the North Carolina Department of Health and Human Services, was on the call to provide public health advice but appeared to be having audio problems. Chief of Staff Stearns said Dr. Wilson is leading a number of efforts to provide best practice guidelines for businesses and had planned to give a brief overview of where North Carolina is



with respect to progression of the virus and a forecast to aid in planning. Chief of Staff Stearns said she explained to Dr. Wilson the unique challenges for courthouse operations, such as the physical space and the way courts call calendars, and she believes Dr. Wilson will be able to offer some great suggestions. As the taskforce starts to think about phasing back to full operations in June, July, and August, Chief of Staff Stearns said we need to plan several months in advance for issues like creating calendars and summoning jurors. Chief of Staff Stearns relayed that Dr. Wilson suggested the taskforce should plan around the need to maintain social distancing for six months into the future, adding that it is easier to plan for reduced operations and then ramp up if things go well than it is to plan for full functioning and discover we have to postpone and cancel sessions again. Chief of Staff Stearns stressed that the Judicial Branch needs to maintain public confidence in the operations of our courts and do its best to prevent public frustration with repeated postponements.

Judge Corpening stated that some of the social distancing measures that are recommended for retail establishments will not work for courthouses, noting that maintaining a distance of six feet means six feet in all directions. Judge Corpening said some counties are marking seats in courtrooms with enough space between them to allow parties to sit, but he does not know what that would look like for people seated at counsel table. As courts strive to become more creative in scheduling, Judge Corpening said he would like to know how many times a day the courtrooms need to be disinfected. He would also like to see a protocol for steps that need to be taken when officials become aware of exposure to the virus so they are able to respond quickly and appropriately with best practices.

After getting her audio to work, Dr. Wilson stated that Chief of Staff Stearns and Judge Corpening covered the matters she planned to address. She said everyone is hoping for good news about the virus' progression but she believes it is important to plan for multiple potential scenarios so the court system is not caught off guard.

Judge Bridges said everything court officials do needs to be in the context of possible second or third waves of the virus, noting that the courts may need to ramp back down after ramping up. Judge Bridges said there is a lot of national discussion around reopening the economy but, in the context of North Carolina's courts, he believes that is an inappropriate description because the courts have not been closed. Judge Bridges stressed that the courts have remained open throughout this crisis, although they have been operating at a greatly reduced level, so the more appropriate discussion is how to phase the courts back into full operations.

Judge Bridges said the first agenda item for the taskforce is to better define its mission and what the group is being called on to consider and do. Preliminary discussions have led to at least six tentative categories of items for the taskforce to accomplish:

1. Provide some immediate feedback to the Chief Justice about how to handle the current deadline extension. Judge Bridges said, under the Chief Justice's existing orders, there will be a large number of deadlines that originally would have landed between March 16, 2020 and June 1, 2020 that will all come due on the same day. The Chief Justice may need to address that issue in a new emergency order and would like input from the taskforce.
2. Discuss a timetable or trigger points for phasing the courts back to full operations.





3. Identify best practices for health and safety while the courts are phasing back to full operations. Judge Bridges noted that the taskforce will have many questions for public health experts in this area.
4. Recommend future emergency directives to the Chief Justice.
5. Prioritize the most pressing court and case types as the courts phase back to full operations.
6. Suggest innovations in court scheduling and operations so that the courts can begin taking a more modern view of the way we do business. Judge Bridges said the courts need to explore customs and practices that no longer make sense, such as scheduling large groups of people to show up for daily calendar calls.

In addition, Judge Bridges said someone suggested a seventh category of addressing “virus fatigue,” especially for staff in the clerks’ offices who are working with the public on a daily basis. Judge Bridges said that is a high stress environment right now and clerks’ staff are growing weary in this crisis. Judicial officials need to be mindful of that and help identify support systems for them.

Judge Corpening said he has been involved in a number of conversations about the first topic, and he believes the clerks offices would be overrun if all filings come due on June 1, 2020. Judge Corpening suggested that perhaps there needs to be one hard deadline for statutes of limitations and repose, but there could be rolling extensions for other deadlines that allow attorneys and litigants to spread out new filings. Clerk Johnson said, if a large volume of filings come due on June 1, the clerks will need some direction on how they should be staffed to handle the volume. Clerk Johnson said her staff is currently working in shifts, and she would need to take steps to phase back into full staffing.

Clerk Chinn-Gary said she has more than 200 employees in her clerk’s office and she does not expect to be fully staffed on June 1. She said she plans to phase in more work hours at the courthouse during the month of May, but she has high-risk employees who will need to stay out of the courthouse longer and she does not expect to have the productivity of a full staff on June 1. Clerk Chinn-Gary said that would impact the ability of attorneys and litigants to file documents. Clerk Chinn-Gary said her office has encouraged people to mail in new filings, but they have seen some long lines during their limited operational hours. She noted that judicial officials need to have conversations about how sheriff deputies can assist when the courthouses resume full operations, and she suggested scheduling a call with the sheriffs’ association to seek their help in managing traffic into courthouses and in courtrooms.

Judge Bridges asked the clerk representatives if a June 1 date for statutes of limitations would be too early for them. Clerk Johnson said her office has not been refusing filings and they have continued coming in by mail. Clerk Johnson added that smaller counties might be able to handle a June 1 deadline, but that might be harder for larger counties. Clerk Chinn-Gary said her office could probably make June 1 work with a mandate that mailed filings must be postmarked on or before June 1. She remains concerned about too many people coming into the courthouse trying to get file-stamped copies.

Judge Bridges asked the attorney members how a June 1 deadline would impact them. Attorney Weede said it has been very challenging to communicate with in-custody clients so he believes attorneys will need extensions in many criminal cases, particularly potentially capital cases. Attorney Sumwalt said there has been some confusion among NCAJ members about the “deemed timely filed” language in the Chief Justice’s orders, and whether that is intended to extend statutes of limitations.





Judge Bridges asked if a hard deadline for statutes of limitations, accompanied by a series of rolling deadlines of 90 to 120 days from the original due date for filings like pleadings, motions, and records on appeal, would cause confusion. Attorney Harrison said it will be important for the Chief Justice's directives to be clearly understood across the state, and he suggested that perhaps she could answer specific questions from attorneys in a public way. Clerk Johnson said having a lot of different categories with different due dates would be very burdensome for the clerks. Attorney Sumwalt said a lot of matters of day-to-day practice are difficult to accomplish right now, and attorneys will need some flexibility beyond the formal extensions.

Judge Bridges said one of the differences between statutes of limitations and other deadlines like those established by scheduling orders is that only the Chief Justice can extend statutes of limitations, but local judges have discretion to grant further extensions of the latter. Judge Bridges suggested that the taskforce hold its next meeting on Tuesday, May 5, and that the members go back to their internal working groups before then and seek feedback on this issue. Judge Bridges said he would like to reach consensus on a recommendation for the Chief Justice on this issue at the next meeting.

Chief of Staff Stearns said there may also be technology issues with NCAOC's legacy systems as the courts ramp back up. She deferred to NCAOC staff on whether those systems can accommodate variable extensions or whether it would be more feasible to have the same deadline extension for all case types. Trial Court Administrator Myers said NCAOC had provided the taskforce members with year-to-date data on filings, but she suggested that it might be more helpful to have last year's filing data during the same time period. She said that data may help the taskforce gauge what kind of influx the courts would be facing with a single deadline of June 1. Judge Bridges asked NCAOC staff to provide that data.

Judge Bridges turned to a discussion of prioritizing court and case types. Judge Corpening said the attachments to the meeting agenda contained some suggestions for prioritizing the most emergent case types in various areas. Judge Corpening asked the members to discuss these recommendations with their internal working groups and to think about how they would prioritize cases. Judge Corpening noted that expanded scheduling will probably mean longer court dates and that the taskforce should try to come up with a comprehensive plan.

Judge Bridges said the court managers have given a lot of attention to this issue, and Trial Court Coordinator Craig said the materials in Attachment B represent their efforts. Judge Bridges said different court groups are going to have different views about the most significant management issues. For example, superior court judges may be most concerned about jury management, while district court judges may see the large numbers of people in their courtrooms as the biggest issue. Judge Bridges said taskforce members need to have further discussions with their working groups and there needs to be deference to court actors who have "the most skin in the game" for particular case types. Judge Corpening said there may be some hidden landmines in this effort. For example, there seemed to be a lot of agreement early in the crisis that nonsecure hearings needed to continue in abuse/neglect/dependency cases, but the failure to hold some other hearings put Title IV-E funding in jeopardy.

Judge Corpening said SOG Professor Cheryl Howell had suggested connecting with experts in case management, such as staff from the National Center for State Courts (NCSC). Professor Howell said





there may be in-state expertise in this area, but NCSC and the National Association of State Judicial Educators may be able to offer advice. Trial Court Coordinator Craig said there are well seasoned court managers throughout the state, many of whom are members of the National Association for Court Management. Trial Court Administrator Myers said the local court managers know our state's cases and what is needed to make our courtrooms run and, especially given the time crunch, she believes the state court managers are a better source of expertise.

Judge Bridges said there are at least two categories of the taskforce's mission that may necessitate additional research, including: 1) the need to generate a list of questions about best safety practices for public health officials; and 2) identifying innovations in court scheduling and operations. Judge Bridges suggested forming a **Best Safety Practices and Innovations Working Group**, and asked Trial Court Coordinator Craig, Trial Court Administrator Myers, and SOG Professor Howell to serve on that group and generate recommendations for the full taskforce as soon as possible. Public Defender Harjo volunteered to serve as well, noting that she is interested in best practices with respect to interacting with clients in courtrooms. NCAOC Deputy Director Danielle Carman sent a message via chat offering the assistance of NCAOC Court Programs staff Lori Cole and DeShield Greene.

Judge Bridges turned to the topic of "virus fatigue," and SOG Professor Jim Drennan said it will be important for all court actors to maintain some balance during these times. Professor Drennan said the court system will risk burnout of its employees if it is not intentional about supporting them, noting that the danger of working from home is that people are always working. Clerk Chinn-Gary said she has put a lot of thought into how to keep her staff engaged and feeling safe and appreciated, and she has some creative ideas that she is willing to share.

Clerk Chinn-Gary said it will be important not to have large numbers of people at calendar calls, and she asked if the taskforce could make recommendations about the appropriate number of people to allow in each courtroom. Trial Court Administrator Myers said Wake County court officials have been working with county personnel to measure the criminal courtrooms, mark appropriately distanced seating, and determine what traffic flow should look like to keep people safe. Clerk Chinn-Gary said she has taken similar actions locally, but she wonders whether overall suggestions should come from the taskforce. Judge Corpening said those are questions that the group needs to involve public health experts in answering. Judge Corpening said taskforce members can then apply their expertise about day-to-day courthouse operations and develop best practices that local officials can apply.

Judge Vincent suggested that the Chief Justice and NCAOC Director send letters to county officials asking for their support of any best practice recommendations in courthouses across the state. Chief of Staff Stearns said the Chief Justice sent a letter yesterday to all county commissioners asking them to be in touch with local judicial officials and stressing the importance of county government support in safely operating courthouses.

Judge Bridges asked Professor Drennan to lead a **Virus Fatigue Working Group**, and asked Clerk Johnson, Clerk Chinn-Gary, and one of the Trial Court Coordinators to serve and consider creating a set of materials and resources for dissemination to the field. Judge Corpening suggested adding one of the private lawyers in light of the unprecedented isolation of working from home. While Attorney Sumwalt is not a member of the taskforce, he volunteered to serve.





Judge Corpening suggested creating a **Technology Working Group** to look at the types of proceedings that can be done remotely, whether there are any legislative changes needed to support that effort, and whether there are additional equipment needs. Attorneys Weede and Harrison and Trial Court Administrator Myers volunteered to serve on that working group. Judge Bridges asked Judge Corpening to be involved in that group's work. Judge Corpening agreed, and suggested involving District 19C Chief District Court Judge Charlie Brown as well. Clerk Chinn-Gary said a clerk should be added to that working group, adding that she is willing to serve or the clerks' conference can select someone else. NCAOC Chief Technology Officer Anthony Whitmore sent a message via chat offering his assistance to the working group.

Trial Court Administrator Myers asked whether NCAOC and/or SOG could generate a list of case types with statutorily-imposed timelines of which the taskforce needs to be aware. SOG Professor Ann Anderson offered to work on gathering that information. SOG Professor Howell sent a message via chat offering to help with that effort, and NCAOC Assistant Legal Counsel Nicole Brinkley sent a message offering to help on the civil side.

The meeting adjourned at 11:48 a.m. The next meeting will be held on May 5, 2020 at 2:00 p.m. via WebEx.

